

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 97-6619

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

LEONARD MAURICE BROOKS,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of North Carolina, at Charlotte. Graham C. Mullen, District Judge. (CR-91-159-MU, CA-95-474-3-MU)

Submitted: November 6, 1997

Decided: November 21, 1997

Before WIDENER and LUTTIG, Circuit Judges, and BUTZNER, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Leonard Maurice Brooks, Appellant Pro Se. Gretchen C. F. Shappert, Assistant United States Attorney, Charlotte, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Appellant seeks to appeal the district court's order denying his motion filed under 28 U.S.C.A. § 2255 (West 1994 & Supp. 1997). We have reviewed the record and the district court's opinion and find no reversible error. Accordingly, we deny a certificate of appealability and dismiss the appeal substantially on the reasoning of the district court. United States v. Brooks, Nos. CR-91-159-MU; CA-95-474-3-MU (W.D.N.C. Feb. 26, 1997). We find that Appellant's claims regarding the constitutionality of the crack versus cocaine ratio and whether the prosecution met its burden of proving that the substance actually was crack are procedurally barred because Appellant failed to raise them before the district court. As to Appellant's claim that his attorney was ineffective because of a personal conflict of interest, we find that Petitioner has failed to establish both that his attorney's performance fell below an objective standard of reasonableness and that he was prejudiced by the attorney's conduct. See Strickland v. Washington, 466 U.S. 668, 687 (1984). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED